

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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JERRY L. PATTERSON,

Plaintiff,

v.

STATE OF TENNESSEE, SHERIFF BILL  
OLDHAM, ATTORNEY GENERAL AMY  
WEIRICH, MARK LUTRELL, CHIEF  
MOORE, CHIEF MCGEE, LT.  
ROBINSON, L. AUSTIN, and CAPTAIN  
DAVIS

Defendants.

No. 2:17-cv-02484-TLP-tmp

JURY DEMAND

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**ORDER DENYING PLAINTIFF’S MOTION TO DISMISS, GRANTING FIRST  
MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS, AND DENYING  
SECOND MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS**

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Plaintiff, who at the time of filing was incarcerated at the Shelby County Jail (“Jail”) in Memphis, Tennessee, filed a pro se complaint against Defendants under 42 U.S.C. § 1983 accompanied with a Motion for Leave to Proceed in forma pauperis. (ECF Nos. 1, 2.) The Court granted Patterson leave to proceed in forma pauperis and assessed the civil filing fee pursuant to the Prison Litigation Reform Act (“PLRA”), 28 U.S.C. §§ 1915(a)-(b). (ECF No. 4.)

On July 18, 2017, Patterson filed a Motion to Dismiss. (ECF No. 5.) It is clear from the motion, and from the additional filings in this matter, Patterson is seeking a dismissal of the criminal charges against him and not from this instant matter. For the forgoing reasons, Patterson’s Motion to Dismiss is DENIED.

On January 23, 2018, Patterson informed the Court that his address has changed indicating that he is no longer incarcerated. (ECF No. 14.) He filed a Motion for Leave to Proceed in forma pauperis with a non-prisoner affidavit on February 12, 2018 (ECF No. 16) and a second duplicative Motion for Leave to Proceed in forma pauperis with a non-prisoner affidavit on February 26, 2018 (ECF No. 18).

When a prisoner is released after the filing fee is assessed pursuant to the PLRA, but before the fee is fully paid, the Sixth Circuit has held that “the obligation to pay the remainder of the fees is to be determined solely on the question of whether the released individual qualifies for pauper status.” *McGore v. Wrigglesworth*, 114 F.3d 601, 613 (6th Cir. 1997), *overruled on other grounds by Jones v. Bock*, 549 U.S. 199, 203 (2007). In this case, Plaintiff has submitted the appropriate non-prisoner in forma pauperis affidavit. The information set forth in the affidavit satisfies Plaintiff’s burden of demonstrating that he is unable to pay the civil filing fee. Accordingly, the first motion for leave to proceed in forma pauperis with a non-prisoner affidavit (ECF No. 16) is GRANTED. The second motion for leave to proceed in forma pauperis with a non-prisoner affidavit (ECF No. 18) is a duplicate and DENIED as moot.

**SO ORDERED**, this 29th day of August, 2018.

s/Thomas L. Parker  
THOMAS L. PARKER  
UNITED STATES DISTRICT JUDGE